

**JUDGE MARKETON**

Christopher M. Schierloh (CS-6644)  
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 Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

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 INDEMNITY INSURANCE COMPANY OF NORTH  
 AMERICA a/s/o MTS SYSTEMS CORP.,

07 Civ.

Plaintiff,

vs.

**COMPLAINT**

CENTRAL TRANSPORT, INC.,

Defendant.

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Plaintiff, by its attorneys, CASEY & BARNETT, LLC, for its Complaint, alleges upon information and belief, as follows:

1. This is a claim involving the interstate transportation of goods by road made pursuant to the provisions of the Carmack Amendment, 49 USCA § 14706. The Court's jurisdiction is predicated upon 28 U.S.C. § 1331 and 28 U.S.C. § 1337.
2. Plaintiff, Indemnity Insurance Company of North America, is a Pennsylvania corporation with a place of business located at 140 Broadway, 40<sup>th</sup> Floor, New York, New York 10005, and is the cargo insurer for a pump owned by MTS Systems, Inc., as more fully described below.
3. Defendant, Central Transport, Inc., is a foreign business corporation authorized to conduct business within the State of New York, having an office and place of business located at 12225 Stephens Road, Warren, Michigan 48089, and at all times relevant was, and still is, doing

business in this jurisdiction directly and/or through an agent and was acting at all times as a common carrier of goods by road.

4. Plaintiff brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the said consignment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

5. On or about December 30, 2005, a consignment consisting of 1 hydraulic pump, then being in good order and condition, was delivered into the custody and control of defendant, Central Transport, at Eden Prairie, Minnesota for transportation by road to Ford Motor Company in Dearborn, Michigan, in consideration of an agreed freight pursuant to Central Transport's Bill of Lading 551-390541-1, dated December 30, 2005.

6. When the pump arrived at its intended destination, on January 6, 2006, it was determined that pump had sustained physical damages during transit and delivery was refused by the receiver, Ford Motor Company, Inc.

7. Thereafter, the pump was returned to the facility of the shipper, MTS, for inspection and repair.

8. The damaged pump was repaired at a cost of \$21,266.82 and shipped back to the Ford Motor Company.

9. Upon determining that the cargo was damaged, MTS, placed the defendant, Central Transport, on notice and subsequently submitted a claim for the damage to its cargo insurer, Indemnity Insurance Company of North America. Following its investigation into the matter, the insurer paid the insurance claim and became subrogated to the rights of its assured.

10. By reason of the foregoing, plaintiff has sustained damages in a total amount of no less than \$21,266.82, as nearly as presently can be determined, no amount of which has been paid, although duly demanded.

**WHEREFORE**, plaintiff prays:

1. That process in due form of law may issue against Defendant citing it to appear and answer all and singular matters aforesaid;
2. That judgment may be entered in favor of Plaintiff against defendant for the amount of Plaintiff's damages, together with interest, costs, and the disbursements of this action; and
3. That this Court grant to Plaintiff such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
September 19, 2007  
115-759

CASEY & BARNETT, LLC  
Attorneys for Plaintiff

By:

  
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